IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4181 OF 2006

1. Shri Ramesh Rambhau Narkhede,)
Age:53 years, Occupation:Business,)
R/at B/1/16, Ragdari, D.P.Road,)
Aundh, Pune 411 007.)

2. Mathurabai Rambhau Narkhede)
Memorial Trust,)
R/at B/1/16, Ragdari, D.P.Road,)
Aundh, Pune 411 007.)

3. Surekha Ramesh Narkhede,)
Age:50 years, Occupation:Business,)
R/at B/1/16, Ragdari, D.P.Road,)
Aundh, Pune 411 007.)

4. Sudhakar Rambhau Narkhede,)
Age:50 years, Occupation:Business,)
R/o.Kirtimalini Co-operative)
Housing Society, Modern Colony,)
Kothrud, Pune.) ...Applicants

Versus

1. The State of Maharashtra,)
Through Senior Inspector of Police)
Economic Offence Wing (E.O.W.),)
Pune.)...Respondent

Shri A.P.Mundargi, Senior Counsel with Shri Amol Patankar for the Applicant.

Shri S.V.More, A.P.P for the State.

CORAM : A. S. OKA, J.

DATE : DECEMBER 07, 2006.

JUDGMENT:

1. Heard the learned senior counsel appearing for

the Applicants and the learned A.P.P for the State. An offence has been registered against the Applicant No.1 and others under sections 406, 420, 465, 468 and 120B of the Indian Penal Code. It was alleged in F.I.R lodged by one Vinodkumar Somnath Soni that the accused represented that their institution by the name Indian Institute of Management, Pune was conducting full time courses of M.B.A.Degree and P.G.D.B.M of University of Pune. It was represented to students all over India that alongwith the said course, another course will be conducted free of cost. It is alleged that by making false representation, interviews were held at various places in India and for the aforesaid courses yearly fees of Rs.2,34,000/- and Rs.2,54,000/- were collected from every student.

2. The fee amounts allegedly collected by the accused were deposited in the bank accounts of the Management with ICICI Bank and the Cosmos Co-operative Bank Limited. Therefore, under section 102 of the Code of Criminal Procedure, 1973 the said accounts were freezed.

3. An Application was made being Criminal

Application No.3774 of 2006 by the Applicant No.1 herein for grant of anticipatory bail in connection with the said offence. This court granted anticipatory bail by order dated 15th November, 2006. This court recorded submission of the Applicant that only 22 students have complained to investigating machinery and the said students have been given refund of the amount paid by them towards fees.

4. An Application was made by the first Applicant herein before the learned Magistrate praying for permission for operating the bank accounts. It was stated in the Application that the management is required to deposit the examination fees of the other students enrolled in the courses conducted by the Management. The said Application has been rejected by the learned Magistrate by the order dated 04th November, 2006 which has been impugned in this Application under section 482 of the Code of Criminal Procedure, 1973.

5. The learned senior counsel appearing for the Applicant submitted that all the students who have complained have received refund of the entire amount

paid by them. He submitted that on the direction issued by the Investigating Officer, the amounts have been refunded. He invited my attention to a declaration signed by 29 students which is annexed to this Application. On the last date I directed the learned A.P.P to ascertain whether refund of fees has been made by the the Applicants to all the students who have made grievance.

6. Accordingly, a report is submitted by the inspector of police of the Economic Offences Wing, Pune. In the said report particulars of the bank account are mentioned. It is also stated that 29 students who are either complainants or witnesses have received the amounts from the Applicants and accordingly a letter signed by the said students has been submitted to the said officer.

7. In August 2006 the Investigating Officer issued two notices to the first Applicant under the provisions of section 149 of the Code of Criminal Procedure, 1973. In one of the notices dated 21st August, 1986, the Investigating Officer directed the management to refund the fees. My attention has been invited to a xerox

copy of the declaration allegedly signed by the 29 students. In the said declaration, the names of the students and the amounts paid by the Applicants together with the particulars of demand drafts received by the said students have been incorporated. Thus, it prima facie appears that the Applicants have refunded the fees received by them to all the students who have made grievance. The Investigating Officer has also confirmed the said fact.

8. In view of this position, there is no impediment in allowing the Applicants to operate the bank accounts. The Applicants are running educational institution and are conducting various courses. Therefore, the impugned order deserves to be quashed and set aside.

9. Hence, I pass the following order:

(i) The impugned Order dated 04th November, 2006 is quashed and set aside.

(ii) The Applicants are permitted to operate the bank account No.003901207525 with ICICI Bank,

Pune and the bank account No.210050 with the Cosmos Co-operative Bank Ltd., Aundhgaon Branch, Pune.

(iii) It is made clear that observations which are made in this order are for limited purposes of considering the prayer made in this Application and nothing stated herein shall be construed as any opinion on merits of the prosecution pending against the Applicants.

JUDGE